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**RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3641**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

For: METHOD TO CONTROL REACTIONS
INVOLVING ISOTOPIC FUEL
WITHIN A MATERIAL USING
ORTHOGONAL ELECTRIC-FIELDS

Serial no. 09/ 748,691

Filed: 12/26/2000

This is a division of Serial no. 07/ 760,970

Filed: 09/17/1991

Group Art Unit: 3641
Examiner: Palabrica, R.J.

November 24, 2003

Office of the Clerk
Board Of Patent Appeals
c/o The Commissioner for Patents
Alexandria, VA 22313-1450

**PETITION TO THE COMMISSIONER
PURSUANT TO 37 C.F.R. 1.181**

1. This Petition is made pursuant to 37 C.F.R. 1.181 to the Commissioner of Patents, and is made to invoke his supervisory authority to correct the situation with respect to the recent Office Communication [Exhibit "A" attached, mailed 11/18/03, and as described below]. Pursuant to 37 C.F.R. 1.181, there is no fee. This Petition is reasonable, based upon the reasons stated below and confirmed by the facts as discussed in the Declaration supporting this Petition.

2. In the discussion below, reference is made to the Declaration of Dr. Mitchell Swartz (hereinafter called the "Swartz Declaration") dated November 23, 2003. It will be demonstrated that this Petition is reasonable because of Mr. Carone's failure to be accurate and his systematic failure to follow a uniform standard of review.

3. Applicant received the Office's Communication dated 11/18/03 (Exhibit "A" attached). Said communication is stamped and signed by Michael Carone.

RECEIVED

DEC 03 2003

OFFICE OF PETITIONS

4. Said office communication purports that there are errors in the Appeal Brief, dated Sept. 17, 2003 in the above-entitled action. To the contrary, the Applicant [now Appellant] respectfully disputes each of these purported errors. In fact, the Appellant will demonstrate that it is Mr. Carone who has made a series of egregious errors which the Appellant will forensically detail below.

5. In the following, the Communication from the office dated November 18, 2003 (Exhibit "A") will hereinafter, be referred to as the "Communication of 11/18/03" or the "second Office Communication". Also, in the following, the Appellant will refer to his previously submitted "Notice of Compliance by Appellant" which was dated Sept. 17, 2003. Hereinafter, this will be referred to as the "Notice". In addition, in the following, the Appellant will refer to his previously submitted (in triplicate) Appeal Brief dated Sept. 17, 2003. Hereinafter, this will be referred to as the "Appeal Brief". Also, previously, Appellant received a communication from the office dated 8/28/03 (copy attached as exhibit "B"). Hereinafter, this will be referred to as the "Communication of 8/28/03" or the "first Office Communication".

The Office's First False Statement

5. Mr. Carone purports that there is "subject matter not found in the specification" and that the Appellant purportedly did not respond to his (nonspecific) previous citation. The Office's Communication inaccurately states,

"1. The Summary still includes subject matter not found in the specification (see item b of previous Office Action)."

The Truth - All Subject Matter Was Discussed In The Specification

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because the subject matter was discussed in the specification.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. For example, in said Notice, the Appellant said on page 2,

"The Office's notification (of 8/28/03) states,

"The Summary includes subject matter not found in the specification (see page 7, last three paragraphs)."

The Appellant has corrected this, and removed the citation from this section."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on pages 4 through 7 in the Appeal Brief, as said Notice stated on page 2. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 2 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication, once again has a false statement.

Third, Appellant respectfully disputes this because each and every matter of the invention was already before the Board. The Appellant has a right to present his case and for it to be concise, clear and accurate before the Board.

Fourth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Fifth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2.

The Office's Second False Statement

6. The Office's Communication inaccurately states,

"2. The recitation of Issues is still improper (see item c of the previous OA)."

The Truth - The Recitation Of Issues Is Proper

The Office is wrong for at least six reasons. First, Appellant respectfully disputes this because the recitation of Issues is indeed proper.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on pages 3 and 4,

"The Office's notification states,

"c. The recitation and scope of Issues is improper. MPEP 1206 states that each stated issue should correspond to a separate ground of rejection which the appellant washes the Board to review. The statement of issues should not include any argument concerning the merit of the issues. For example, a proper way of phrasing an issue is as follows: 'Whether claims 1, 5 8, 10 14 and 21 30 are unpatentable under U.S.C. 101 because the claimed invention is inoperative and therefore lacks unity.' Applicant improperly includes other issues not relevant to the grounds of rejection used by the examiner, e.g., U.S. Constitution."

"The Applicant has corrected this as requested. The Applicant has removed the offending references to the " U.S. Constitution." and reserves his rights to take the Constitutional issues to the Federal Court, First Circuit by this unconstitutional action of the Office and/or Board censoring the very document which enables the Office."

The Applicant has corrected this, and removed the citation from this section."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on pages 8 through 9 in the Appeal Brief, as said Notice stated on pages 3 and 4. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on pages 3 and 4 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement.

Third, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fourth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Fifth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4.

Sixth, in the legal system, it is Appellant who makes the Appeal - and not the Office. The Office is demanding that IT fashion the Appellant's issues. For some unknown reason, the Office now demands to control the thought, the Appeal, the issues, and the Argument as of this date. That is unlawful and consistent with harassment, and has much more than an appearance of impropriety.

The Office's Third False Statement

7. The Office's Second Communication invents a new argument to harass the Appellant and inaccurately states,

"The section still contains issue not relevant to the examiner rejections. Note that the Examiner provided in the previous Office Action an example and cited the specific section in the MPEP (i.e., 1206) that discusses of how to properly phrase an Issue."

The Truth - Every Issue Is Relevant To The Examiner Rejections

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because each and every issue is relevant to the examiner rejections.

Second, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (*vide supra, vide infra*).

Third, Appellant respectfully disputes this because each and every issue relevant to the Examiner's rejections was already before the Board previously. The Appellant has a right to be concise, clear and accurate before the Board.

Fourth, Appellant notes that this is a new argument, and since Appellant did not add any new issues, it cannot be true.

Fifth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4.

The Office's Fourth False Statement

8. The Office's Communication inaccurately states,

" The claimed "operability" of the invention is not a 35 U.S.C. 112, first and second paragraph issues, but a 35 U.S.C. 101 issue. "

The Truth - 35 U.S.C. 101 Involves Utility And Not Operability

The Office is wrong for at least four reasons. First, Appellant respectfully disputes this because it is nonsense. For ten years the Office has cited "operability" pursuant to 35 U.S.C. 112, first paragraph issues. All of a sudden, Mr. Carone changes the Office's previous arguments which existed continuously over more than a decade in this matter. This is egregious without a clear substantive basis for the paroxysmal change.

Second, Appellant respectfully disputes this because a 35 U.S.C. 101 issue involves utility and not "operability". Appellant discussed this in detail. Attention of the Court, Board, and Commissioner is now directed to where it was discussed in detail on pages 111 through 119 in the Appeal Brief. The effort of the Appellant was ignored. Where is the Office's response? Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement.

Third, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fourth, Appellant respectfully disputes this purported change by the Office because this is a new argument of the Office, and should be in the Argument section of the Office's response.

The Office's Fifth False Statement

9. The Office's Communication inaccurately states,

"Notwithstanding this, the statements regarding the 35 U.S.C. 102 and 103 rejections are still improper because the specific prior art used as basis for the unpatentability determination have not been identified."

The Truth - The Specific Prior Art Has Been Identified

The Office is wrong for at least three reasons. First, Appellant respectfully disputes this because the specific prior art was identified in the Appeal Brief.

Second, in fact, attention of the Court, Board, and Commissioner is now directed to where it was discussed on pages 72 through 100 in the Appeal Brief, and as cited in said Notice stated on page 4. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 4 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement.

Third, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 4.

The Office's Sixth False Statement

10. The Office's Communication inaccurately states,

"3. The Grouping of Claims states that claims do not stand or fall together."

"However, there is not discussion in the Arguments section of why EACH claim is considered separately patentable."

The Truth - There Is Not Discussion In The Arguments Section Of Why Each Claim Is Considered Separately Patentable

The Office is wrong for at least seven reasons. First, Appellant respectfully disputes this because there is discussion in the Arguments section of why EACH claim is considered separately patentable.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 5,

**"The Office's notification states,
*"d. The statement on Grouping of Claims is improper because it includes arguments as to why certain claims do not stand or fall together. These arguments should be in the Argument section."***

The Applicant has corrected this as requested."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101, as said Notice stated on page 5.

The meticulous effort of the Appellant was again ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 5 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office to this matter. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement this time ignoring pleadings in the Appeal Brief in the ISSUES section on page 10, and in the Argument section for 35 U.S.C. 112 (first paragraph) on page 11, and in the Argument section for 35 U.S.C. 112 (second paragraph) on page 62, and in the Argument section for 35 U.S.C. 102 on page 72, and in the Argument section for 35 U.S.C. 103 on page 90, and in the Argument section for 35 U.S.C. 101 on page 111.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (*vide supra, vide infra*).

Fourth, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fifth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5.

Seventh, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

The Office's Seventh False Statement

11. The Office's Communication inaccurately states,

"4. The Arguments section is still incomplete and improper.

The Truth - The Arguments Section Is Complete And Proper

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because the Arguments section is complete and proper.

Second, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation: (*vide supra, vide infra*).

Third, Appellant respectfully disputes this because it was discussed on pages 11 through 61 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on pages 62 through 71 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on pages 72 through 89 of the Argument section for 35 U.S.C. 102, and then on pages 90 through 110 of the Argument section for 35 U.S.C. 103, and then on pages 111 through 119 of the Argument section for 35 U.S.C. 101.

Fourth, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fifth, Appellant notes that said confabulation suggests obstruction of justice under color of law by the Office.

The Office's Eighth False Statement

12. The Office's Communication inaccurately states,

"3. The Grouping of Claims states that claims do not stand or fall together."

" However, there is not discussion in the Arguments section of why EACH claim is considered separately patentable."

The Truth - There Is Not Discussion In The Arguments Section Of Why Each Claim Is Considered Separately Patentable

The Office is wrong for at least seven reasons. First, Appellant respectfully disputes this because there is discussion in the Arguments section of why EACH claim is considered separately patentable.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 5,

"The Office's notification states,

"d. The statement on Grouping of Claims is improper because it includes arguments as to why certain claims do not stand or fall together. These arguments should be in the Argument section."

The Applicant has corrected this as requested."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101, as said Notice stated on page 5.

The meticulous effort of the Appellant was again ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 5 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement this time ignoring pleadings in the Appeal Brief in the ISSUES section on page 10, and in the Argument section for 35 U.S.C. 112 (first paragraph) on page 11, and in the Argument section for 35 U.S.C. 112 (second

paragraph) on page 62, and in the Argument section for 35 U.S.C. 102 on page 72, and in the Argument section for 35 U.S.C. 103 on page 90, and in the Argument section for 35 U.S.C. 101 on page 111.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Fourth, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fifth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5.

Seventh, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

The Office's Ninth False Statement

13. The Office's Communication inaccurately states,

"Not all grounds for rejection have been addressed, e.g., new matter rejection under section 9 of the Final Office Action. "

The Truth - The Purported "New Matter Rejection" Was Identified And Discussed

The Office is wrong for at least seven reasons. First, Appellant respectfully disputes this because the purported "new matter rejection" was identified and discussed on pages 3 and 4 in said Notice.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on pages 3 and 4,

"The Office's notification states, "e. The discussion of applicant's contentions in the Argument section is improper. MPEP states, for example, that for each rejection under 35 U.S.C., first paragraph, the argument shall specify the errors in rejection and how said first paragraph is complied with, including as appropriate, how the specification and drawings, if any, a) describe the subject matter defined in each of the rejected claims; b) enable any person skilled in the art to make and use the subject matter defined by each of the rejected claims; and c) set forth the best mode contemplated by the inventor of

carrying out the invention. Applicant does not conform to this requirement of cited example of showing how his application complies with the first paragraph"

Applicant has corrected this, as requested."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was discussed on pages 68 through 78 in the Appeal Brief, as said Notice stated on pages 3 and 4. The meticulous effort of the Appellant was again ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on pages 3 and 4 in said Notice of Sept. 17, 2003 and on pages 68 through 78 in the Appeal Brief. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement this time ignoring pleadings in the Appeal Brief.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Fourth, Appellant already made charges because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Fifth, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4.

Seventh, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

The Office's Tenth False Statement

14. The Office's Communication inaccurately states,

"Since the above deficiencies have been listed in the 8/29/03 Office Action, Applicant's failure to correct them is no longer considered inadvertent."

The Truth - There Are No "Deficiencies"

The Truth - Applicant Did Not Failure To Correct Them

The Office is wrong for at least six reasons. First, Appellant respectfully disputes this because there are no "deficiencies".

Second, Appellant respectfully disputes this because Applicant did NOT failure to correct them.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Fourth, Appellant respectfully disputes this because this was discussed on pages 2 though 5 of said Notice.

Fifth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 2 though 5.

The Office's Eleventh False Statement

15. The Office's Communication inaccurately states,

"In addition, it is noted that claim 14 is not included in Appendix A of the revised brief."

The Truth - Exhibits Were Submitted And Ignored

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because the Examiner asked him to correct this.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 5,

"The Office's notification states,

"f. Appendix A is incorrect because some claims are recited differently from those finally rejected, e.g., claims 1 and 10."

The Applicant has put the correct claims in Appendix "A". Appellant attempted to call the Examiner who refused to address this matter to explain what he was speaking of. The Examiner was reminded that this was for the Board. He refused to discuss it.

The claims are those claims before Final. Attached is copies of the Post Cards stamped by the Office proving receipt [Exhibit "B", also Appendix "C"].

Applicant also presented amendments after Final to comply with the Examiner's suggestions/comments. Attached is the Post Card stamped by the Office showing receipt [Exhibit "B"]. This Exhibit proves Amendments were submitted after Final, and were timely received by the Office.

The claims before Final are in Appendix "A".

The amendments submitted after Final are in Appendix "B". "

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to Appendix A, as said Notice stated on page 5.

Third, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5.

Fourth, where is the Office's response to Exhibit "B" (previously presented to --and received by-- the Office; attached)?

Fifth, in the light of the above, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

The Office's Twelfth False Statement And Most Chaotic Statement

16. The Office's Communication inaccurately states,

"Also, it is noted that Appendix B is mischaracterized as Amendments Entered After Final. "

"To avoid confusion with the claims under Appeal, Appendix B should be deleted."

The Truth - The Office Has Made Two Opposite Dictates Of Appendix B

The Office is wrong for at least four reasons. First, the Office's behavior in this matter is chaotic. As one example, this demand in the Second Communication is opposite the Office's demand in the First Communication.

Second, Appellant respectfully disputes this because Appellant already addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 2,

"The Office's notification states,

"a. The statement of Status of Amendments is improper. Any arguments that the applicant may wish to make regarding these amendments should be discussed in Argument section rather than in this section. There is no Appendix B. contrary to the statement in this section."

Appellant has corrected the statement of the Status of Amendments.

Appendix B is corrected."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now

directed to where it was corrected on page 3 in the Appeal Brief, as said Notice stated on page 2. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 2 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03 chaotically and unfairly demands exactly the opposite of the first Office Communication.

Third, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Fourth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2.

An Example Of The Office's Previous Recent False Statements

17. Previously, in the First Office's notification, Mr. Carone was deceptive and wrong. He stated,

"Not all grounds for rejection of claims are addressed. For example, the examiner rejected new claims 24, 26 and 28 as non enabling because the specification does not describe how and in what manner the claimed redistribution of isotopic fuel causes the so called impact on a fuel impenetrable barrier. This rejection is not specifically addressed in the Appeal Brief, as well as the 35 U.S. C. 103(a) rejection of claims discussed in Section 10 of the Final Office Action, dated 2/3/03."

The Truth - The Purported "New Matter Rejection" Was Identified And Discussed

Despite the deliberate previous false statement in the First Communication, as stated in the Notice on page 4, Appellant notes that this was already addressed in the Appeal Brief on especially pages 78 and thereafter, but also extending through and including page 95.

NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 4.

18. There are at least a dozen errors in the Communication of 11/18/03 by Mr. Carone. This is unfair. This is unreasonable. This has been a pattern. If there was a fifty percent likelihood of each error (that is, if it were made innocently), then the dozen errors reveal that there is only a one in a 4000 likelihood that Mr. Carone is innocent. By contrast, the data heralds that Mr. Carone has been irresponsible, negligent, malicious, and has obstructed justice with systematic actions against the US Constitution and Appellant's civil rights.

WHEREFORE for the above reasons, the Applicant (now Appellant) respectfully requests a reversal, and if not a substantive response, then an apology from the Office to the Board for the delay - with transfer of the Exhibits and Appeals Briefs to the Board.

Respectfully submitted,



Mitchell R. Swartz, ScD, MD, EE
Post Office Box 81135
Wellesley Hills, Mass. 02481

Certificate Of Mailing [37 CFR 1.8(a)]

November 24, 2003

To Whom it Does Concern:

I hereby certify that this correspondence will be deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed to

"Office of the Clerk
Board Of Patent Appeals
c/o The Commissioner for Patents
Alexandria, VA 22313-1450" on the date below.

Thank you.

Sincerely,



November 24, 2003

M.R. Swartz



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,691	12/26/2000	Mitchell R. Swartz		4269
7590	11/18/2003			
Mitchell R. Swartz, ScD, MD, EE 16 Pembroke Road Weston, MA 02493				
EXAMINER				
ART UNIT		PAPER NUMBER		

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

EXHIBIT "A"

RECEIVED

DEC 03 2003

OFFICE OF PETITIONS

APPENDIX C

EXHIBIT "B"

The self-addressed stamped postcards bearing the imprimatur of the stamp of the Patent Office's Post Office proving timely receipt of Exhibits and pleadings.

The date stamp of the United States Patent Office on this postcard will indicate receipt of:

1. Patent Disclosure including Abstract (DY)
2. A division of Serial no. 07/760,970 Filed: 09/17/1991
3. Sheets of drawings
4. A Declaration as the last page thereof
5. A check in the amount of \$355.00 to cover the filing fee
6. A Verified Statement claiming Small Entity status
7. Information Disclosure Statement
8. Form 1440
9. Copies of References cited in IDS
10. A copy of Serial no. 07/760,970 Filed: 09/17/1991
11. This self-addressed stamped postcard

December 28, 2000 Mitchell R. Swartz

The date stamp of the United States Patent Office on this postcard will indicate receipt of:

1. Applicant's Response to Communication of 9/5/02
2. with a Certificate of Mailing on the last page
3. Declaration of Dr. Mitchell R. Swartz
4. A packet of additional Declarations
5. Several packets of References with Forms 1440
6. A copy of the Abstract requested by the Examiner
7. From '970: Amendment under Rule 116 (11/2/93)
8. From '970: Reply Brief to Examiner (4/23/94)
9. Appendix "Introduction to Barriers", and
10. This self-addressed stamped postcard

S.N. 09/748 591 Filed: 12/26/2000
Thank you Dr. M. Swartz
Mailed: November 4, 2002

The date stamp of the United States Patent Office on this postcard will indicate receipt of:

1. Applicant's Amended "Response to Comm. of 7/22/02"
2. with a Certificate of Mailing on the last page
3. Exhibit "REQ" Showing The Request
4. Exhibit "REC" With Date-Stamp Proving Receipt Of Declaration, References, Forms PTO-144, Other materials and appendix "Introduction to Barriers", and
5. This self-addressed stamped postcard

RECEIVED

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OFFICE OF PETITION

The date stamp of the United States Patent Office
on this postcard, will indicate receipt of:

1. "Response of Applicant to Office Action",
with a Certificate of mailing
on the last page thereof, and
2. Version With Markings To Show Changes Made,
3. Petition To The Commissioner Supported By A
4. Declaration of Dr. Mitchell Swartz
5. Several Packages of Exhibits Rebutting The Examiner,
6. Forms 1440 For said Exhibits, and
7. This self-addressed stamped postcard.

S.N. 09/748,691 Filed: 12/26/2000

Thank you.

Mailed: March 24, 2003 Dr. Mitchell Swartz



The date stamp of the United States Patent Office
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S.N. 09/748,691 Filed: 12/26/2000

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Mailed: April 19, 2003 Mitchell Swartz



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S.N. 09/748,691 Filed: 12/26/2000

Thank you.

Mailed: April 19, 2003 Dr. Mitchell Swartz



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APPENDIX A

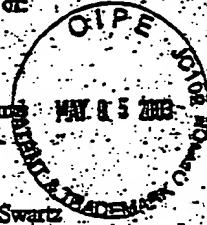
The date stamp of the United States Patent Office
on this postcard will indicate receipt of:

1. "Petition To The Commissioner",
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on the last page thereof, and
2. Declaration of Dr. Mitchell Swartz, and
3. This self-addressed stamped postcard.

S.N. 09/748,691 Filed: 12/26/2000

Thank you.

Mailed: April 30, 2003 Dr. Mitchell Swartz



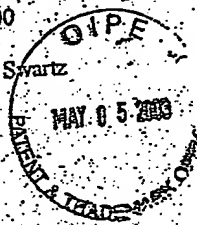
The date stamp of the United States Patent Office
on this postcard will indicate receipt of:

1. "Notice Of Appeal", ~~for a fee of \$160.00~~
with a Certificate of mailing
on the last page thereof, and
2. This self-addressed stamped postcard.

S.N. 09/748,691 Filed: 12/26/2000

Thank you.

Mailed: April 30, 2003 Mitchell Swartz



The date stamp of the Board Of Patent Appeals
on this postcard will indicate receipt of:

- 1) Appellant's Appeal Brief (in triplicate),
- 2) containing a Certificate of Service on the last page,
- 3) Appellant's Appendix attached thereto,
- 4) Appellant's Certificate Of Mailing,
- 5) Appellant's check in the amount of \$160, and
- 6) This Self-addressed postcard for the date stamp
of the Board Of Patent Appeals.

Thank you. Dr. Mitchell R. Swartz

Mailed June 29, 2003

Serial no. 0 / 748,691





**RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3641**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

For: METHOD TO CONTROL REACTIONS
INVOLVING ISOTOPIC FUEL
WITHIN A MATERIAL USING
ORTHOGONAL ELECTRIC-FIELDS

Serial no. 09/ 748,691

Filed: 12/26/2000

This is a division of Serial no. 07/ 760,970

Filed: 09/17/1991

Group Art Unit: 3641
Examiner: Palabrica, R.J.

November 23, 2003

DECLARATION OF DR. MITCHELL SWARTZ

I, Mitchell R. Swartz, declare that I am a citizen of the United States of America and the inventor of the invention described in the above-entitled application.

1. I have a background in electrical engineering, material science, electrochemistry, and medicine, and have worked in this field for more than a decade, and have worked on experimental projects at the Massachusetts Institute of Technology, Massachusetts General Hospital and elsewhere.

2. I received the Office's communication dated 11/18/03 (cover as Exhibit "A"; attached). Said communication is stamped and signed by Michael Carone.

3. Said office communication purports that there are errors in the Appeal Brief dated Sept. 17, 2003 of the above-entitled action. However, analysis reveals that it is Mr. Carone who has made a series of errors with respect to these matters.

4. In the following, the Communication from the office dated November 18, 2003 (Exhibit "A") will hereinafter, be referred to as the "Communication of 11/18/03" or the "second Office Communication". Also, in the following, the Appellant will refer to his previously submitted "Notice of Compliance by Appellant" which was dated Sept. 17, 2003. Hereinafter, this will be referred to as the "Notice". In addition, in the following, the Appellant will refer to his previously submitted (in triplicate) Appeal Brief dated Sept. 17, 2003. Hereinafter, this will be referred to as the "Appeal Brief". Also, previously, Appellant

received a communication from the office dated 8/28/03 (copy attached as exhibit "B"). Hereinafter, this will be referred to as the "Communication of 8/28/03" or the "first Office Communication".

5. Mr. Carone purports that there is "subject matter not found in the specification". This is not true. I addressed this matter in the "Notice of Compliance by Appellant", dated Sept. 17, 2000 on page 2. I did correct it on pages 4 through 7 in the Appeal Brief, as said Notice stated on page 2.

6. The Office's Communication inaccurately states, "2. The recitation of Issues is still improper (see item c of the previous OA)." The Office is wrong. I properly addressed this matter in my "Notice of Compliance by Appellant", dated Sept. 17, 2003 on pages 3 and 4. I did correct it on pages 8 through 9 in the Appeal Brief, as said Notice stated on pages 3 and 4.

7. The Office's Second Communication invents a new argument and inaccurately states, "The section still contains issue not relevant to the examiner rejections." The Office is wrong, and is nonspecific. The Office has also ignored my "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4.

8. The Office's Communication inaccurately states, " The claimed "operability" of the invention is not a 35 U.S.C. 112, first and second paragraph issues, but a 35 U.S.C. 101 issue." The Office is wrong. In fact, the Office has cited "operability" pursuant to 35 U.S.C. 112, first paragraph issues for more than a decade, and now gives now clear substantive basis for the paroxysmal change. Furthermore, a 35 U.S.C. 101 issue involves utility. I discussed this in detail on pages 111 through 119 in the Appeal Brief.

9. The Office's Communication inaccurately states, " Notwithstanding this, the statements regarding the 35 U.S.C. 102 and 103 rejections are still improper because the specific prior art used as basis for the unpatentability determination have not been identified." The Office is wrong. I identified specific prior art on pages 72 through 100 in the Appeal Brief, and as cited in said Notice stated on page 4.

10. The Office's Communication inaccurately states, " there is not discussion in the Arguments section of why EACH claim is considered separately patentable." The Office is wrong. It was corrected on page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the


Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101.

11. The Office's Communication inaccurately states, "4. The Arguments section is still incomplete and improper. The Office is wrong . It was discussed on pages 11 through 61 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on pages 62 through 71 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on pages 72 through 89 of the Argument section for 35 U.S.C. 102, and then on pages 90 through 110 of the Argument section for 35 U.S.C. 103, and then on pages 111 through 119 of the Argument section for 35 U.S.C. 101.

12. The Office's Communication inaccurately states, "... there is not discussion in the Arguments section of why EACH claim is considered separately patentable." The Office is wrong. I addressed this matter in my "Notice of Compliance by Appellant", dated Sept. 17, 2003 on 5. Furthermore, I did correct it on page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101, as said Notice stated on page 5.

13. The Office's Communication inaccurately states, "Not all grounds for rejection have been addressed, e.g., new matter rejection under section 9 of the Final Office Action.". The Office is wrong. I discussed this on pages 3 and 4 in said Notice, and discussed it on pages 68 through 78 in the Appeal Brief, as said Notice stated on pages 3 and 4.


14. The Office's Communication inaccurately states, "Since the above deficiencies have been listed in the 8/29/03 Office Action, Applicant's failure to correct them is no longer considered inadvertent." The Office is wrong because there are no "deficiencies". The Office is wrong because I did NOT fail to correct them. This was discussed on pages 2 though 5 of said Notice.



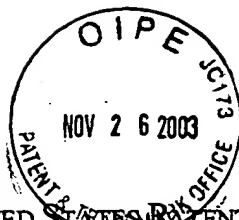
Mitchell R. Swartz, ScD, MD

I declare that all statements herein of my own knowledge are true and that all statements made on information and belief are believed to be true.

Signature of Inventor:
November 23, 2003



Mitchell R. Swartz, ScD, MD, EE
Post Office Box 81135
Wellesley Hills, Mass. 02481



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,691	12/26/2000	Mitchell R. Swartz		4269

7590 11/18/2003

Mitchell R. Swartz, ScD, MD, EE
16 Pembroke Road
Weston, MA 02493

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 11/18/2003



Please find below and/or attached an Office communication concerning this application or proceeding.

EXHIBIT "A"

RECEIVED

DEC 03 2003

OFFICE OF PETITIONS



**RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3641**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

For: METHOD TO CONTROL REACTIONS
INVOLVING ISOTOPIC FUEL
WITHIN A MATERIAL USING
ORTHOGONAL ELECTRIC-FIELDS

Serial no. 09/ 748,691

Filed: 12/26/2000

This is a division of Serial no. 07/ 760,970

Filed: 09/17/1991

Group Art Unit: 3641
Examiner: Palabrica, R.J.

November 24, 2003

Office of the Clerk
Board Of Patent Appeals
c/o The Commissioner for Patents
Alexandria, VA 22313-1450

**MOTION FOR SANCTIONS AGAINST MR. CARONE
PURSUANT TO 37 C.F.R. 1.181**

1. This Motion is made pursuant to 37 C.F.R. 1.181 to the Commissioner of Patents, and is made to invoke his supervisory authority to correct the situation with respect to the recent Office Communication [Exhibit "A" attached, mailed 11/18/03, and as described below]. Pursuant to 37 C.F.R. 1.181, there is no fee. This Petition is reasonable, based upon the reasons stated below and confirmed by the facts as discussed in the Declaration supporting this Petition.

2. In the discussion below, reference is made to the Declaration of Dr. Mitchell Swartz (hereinafter called the "Swartz Declaration") dated November 23, 2003. It will be demonstrated that this Motion for Sanctions is reasonable because of Mr. Carone's systematic failure to be accurate and his systematic failure to follow a uniform standard of review.

3. Applicant received the Office's Communication dated 11/18/03 (Exhibit "A", attached). Said communication is stamped and signed by Michael Carone.

4. Said office communication purports that there are errors in the Appeal Brief, dated Sept. 17, 2003 in the above-entitled action. To the contrary, the Applicant [now Appellant] respectfully disputes each of these purported errors. In fact, the Appellant will demonstrate that it is Mr. Carone who has made a series of egregious errors which the Appellant will forensically detail below.

5. In the following, the Communication from the office dated November 18, 2003 (Exhibit "A") will hereinafter, be referred to as the "Communication of 11/18/03" or the "second Office Communication". Also, in the following, the Appellant will refer to his previously submitted "Notice of Compliance by Appellant" which was dated Sept. 17, 2003. Hereinafter, this will be referred to as the "Notice". In addition, in the following, the Appellant will refer to his previously submitted (in triplicate) Appeal Brief dated Sept. 17, 2003. Hereinafter, this will be referred to as the "Appeal Brief". Also, previously, Appellant received a communication from the office dated 8/28/03 (copy attached as exhibit "B"). Hereinafter, this will be referred to as the "Communication of 8/28/03" or the "first Office Communication".

The Office's First False Statement

5. Mr. Carone purports that there is "subject matter not found in the specification" and that the Appellant purportedly did not respond to his (nonspecific) previous citation. The Office's Communication inaccurately states,

"1. The Summary still includes subject matter not found in the specification (see item b of previous Office Action)."

The Truth - All Subject Matter Was Discussed In The Specification

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because the subject matter was discussed in the specification.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. For example, in said Notice, the Appellant said on page 2,

"The Office's notification (of 8/28/03) states,

"The Summary includes subject matter not found in the specification (see page 7, last three paragraphs)."

The Applicant has corrected this, and removed the citation from this section."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on pages 4 through 7 in the Appeal Brief, as said Notice stated on page 2. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 2 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication, once again has a false statement.

Third, Appellant respectfully disputes this because each and every matter of the invention was already before the Board. The Appellant has a right to present his case and for it to be concise, clear and accurate before the Board.

Fourth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Fifth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2.

The Office's Second False Statement

6. The Office's Communication inaccurately states,

"2. The recitation of Issues is still improper (see item c of the previous OA)."

The Truth - The Recitation Of Issues Is Proper

The Office is wrong for at least six reasons. First, Appellant respectfully disputes this because the recitation of Issues is indeed proper.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on pages 3 and 4,

"The Office's notification states,

"c. The recitation and scope of Issues is improper. MPEP 1206 states that each stated issue should correspond to a separate ground of rejection which the appellant washes the Board to review. The statement of issues should not include any argument concerning the merit of the issues. For example, a proper way of phrasing an issue is as follows: 'Whether claims 1, 5 8, 10 14 and 21 30 are unpatentable under U.S.C. 101 because the claimed invention is inoperative and therefore lacks unity.' Applicant improperly includes other issues not relevant to the grounds of rejection used by the examiner, e.g., U.S. Constitution."

"The Applicant has corrected this as requested. The Applicant has removed the offending references to the " U.S. Constitution." and reserves his rights to take the Constitutional issues to the Federal Court, First Circuit by this unconstitutional action of the Office and/or Board censoring the very document which enables the Office."

The Applicant has corrected this, and removed the citation from this section."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on pages 8 through 9 in the Appeal Brief, as said Notice stated on pages 3 and 4. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on pages 3 and 4 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement.

Third, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fourth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Fifth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4.

Sixth, in the legal system, it is Appellant who makes the Appeal - and not the Office. The Office is demanding that IT fashion the Appellant's issues. For some unknown reason, the Office now demands to control the thought, the Appeal, the issues, and the Argument as of this date. That is unlawful and consistent with harassment -- and has much more than an appearance of impropriety.

The Office's Third False Statement

7. The Office's Second Communication invents a new argument to harass the Appellant and inaccurately states,

"The section still contains issue not relevant to the examiner rejections. Note that the Examiner provided in the previous Office Action an example and cited the specific section in the MPEP (i.e., 1206) that discusses of how to properly phrase an Issue."

The Truth - Every Issue Is Relevant To The Examiner Rejections

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because each and every issue is relevant to the examiner rejections.

Second, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (*vide supra, vide infra*).

Third, Appellant respectfully disputes this because each and every issue relevant to the Examiner's rejections was already before the Board previously. The Appellant has a right to be concise, clear and accurate before the Board.

Fourth, Appellant notes that this is a new argument, and since Appellant did not add any new issues, it cannot be true.

Fifth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4.

The Office's Fourth False Statement

8. The Office's Communication inaccurately states,

"The claimed 'operability' of the invention is not a 35 U.S.C. 112, first and second paragraph issues, but a 35 U.S.C. 101 issue."

The Truth - 35 U.S.C. 101 Involves Utility And Not Operability

The Office is wrong for at least four reasons. First, Appellant respectfully disputes this because it is nonsense. For ten years the Office has cited "operability" pursuant to 35 U.S.C. 112, first paragraph issues. All of a sudden, Mr. Carone changes the Office's previous arguments that were used for more than a decade in this matter. This is egregious without a clear substantive basis for the paroxysmal change.

Second, Appellant respectfully disputes this because a 35 U.S.C. 101 issue involves utility and not "operability". Appellant discussed this in detail. Attention of the Court, Board, and Commissioner is now directed to where it was discussed in detail on pages 111 through 119 in the Appeal Brief. The effort of the Appellant was ignored. Where is the Office's response? Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement.

Third, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fourth, Appellant respectfully disputes this purported change by the Office because this is a new argument of the Office, and should be in the Argument section of the Office's response.

The Office's Fifth False Statement

9. The Office's Communication inaccurately states,

"Notwithstanding this, the statements regarding the 35 U.S.C. 102 and 103 rejections are still improper because the specific prior art used as basis for the unpatentability determination have not been identified."

The Truth - The Specific Prior Art Has Been Identified

The Office is wrong for at least three reasons. First, Appellant respectfully disputes this because the specific prior art was identified in the Appeal Brief.

Second, in fact, attention of the Court, Board, and Commissioner is now directed to where it was discussed on pages 72 through 100 in the Appeal Brief, and as cited in said Notice stated on page 4. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 4 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement.

Third, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 4.

The Office's Sixth False Statement

10. The Office's Communication inaccurately states,

"3. The Grouping of Claims states that claims do not stand or fall together."

"However, there is not discussion in the Arguments section of why EACH claim is considered separately patentable."

The Truth - There Is Not Discussion In The Arguments Section Of Why Each Claim Is Considered Separately Patentable

The Office is wrong for at least seven reasons. First, Appellant respectfully disputes this because there is discussion in the Arguments section of why EACH claim is considered separately patentable.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 5,

**"The Office's notification states,
*"d. The statement on Grouping of Claims is improper because it includes arguments as to why certain claims do not stand or fall together. These arguments should be in the Argument section."***

The Applicant has corrected this as requested."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101, as said Notice stated on page 5.

The meticulous effort of the Appellant was again ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 5 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office to this matter. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement this time ignoring pleadings in the Appeal Brief in the ISSUES section on page 10, and in the Argument section for 35 U.S.C. 112 (first paragraph) on page 11, and in the Argument section for 35 U.S.C. 112 (second paragraph) on page 62, and in the Argument section for 35 U.S.C. 102 on page 72, and in the Argument section for 35 U.S.C. 103 on page 90, and in the Argument section for 35 U.S.C. 101 on page 111.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (*vide supra, vide infra*).

Fourth, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fifth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5.

Seventh, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

The Office's Seventh False Statement

11. The Office's Communication inaccurately states,

"4. The Arguments section is still incomplete and improper."

The Truth - The Arguments Section Is Complete And Proper

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because the Arguments section is complete and proper.

Second, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (*vide supra*, *vide infra*).

Third, Appellant respectfully disputes this because it was discussed on pages 11 through 61 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on pages 62 through 71 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on pages 72 through 89 of the Argument section for 35 U.S.C. 102, and then on pages 90 through 110 of the Argument section for 35 U.S.C. 103, and then on pages 111 through 119 of the Argument section for 35 U.S.C. 101.

Fourth, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fifth, Appellant notes that said confabulation suggests obstruction of justice under color of law by the Office.

The Office's Eighth False Statement

12. The Office's Communication inaccurately states,

"3. The Grouping of Claims states that claims do not stand or fall together."

" However, there is not discussion in the Arguments section of why EACH claim is considered separately patentable."

The Truth - There Is Not Discussion In The Arguments Section Of Why Each Claim Is Considered Separately Patentable

The Office is wrong for at least seven reasons. First, Appellant respectfully disputes this because there is discussion in the Arguments section of why EACH claim is considered separately patentable.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 5,

"The Office's notification states,

"d. The statement on Grouping of Claims is improper because it includes arguments as to why certain claims do not stand or fall together. These arguments should be in the Argument section."

The Applicant has corrected this as requested."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101, as said Notice stated on page 5.

The meticulous effort of the Appellant was again ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 5 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement this time ignoring pleadings in the Appeal Brief in the ISSUES section on page 10, and in the Argument section for 35 U.S.C. 112 (first paragraph) on page 11, and in the Argument section for 35 U.S.C. 112 (second

paragraph) on page 62, and in the Argument section for 35 U.S.C. 102 on page 72, and in the Argument section for 35 U.S.C. 103 on page 90, and in the Argument section for 35 U.S.C. 101 on page 111.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (*vide supra*, *vide infra*).

Fourth, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fifth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5.

Seventh, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

The Office's Ninth False Statement

13. The Office's Communication inaccurately states,

"Not all grounds for rejection have been addressed, e.g., new matter rejection under section 9 of the Final Office Action. "

The Truth - The Purported "New Matter Rejection" Was Identified And Discussed

The Office is wrong for at least seven reasons. First, Appellant respectfully disputes this because the purported "new matter rejection" was identified and discussed on pages 3 and 4 in said Notice.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on pages 3 and 4,

"The Office's notification states,

"e. The discussion of applicant's contentions in the Argument section is improper. MPEP states, for example, that for each rejection under 35 U.S.C., first paragraph, the argument shall specify the errors in rejection and how said first paragraph is complied with, including as appropriate, how the specification and drawings, if any, a) describe the subject matter defined in each of the rejected claims; b) enable any person skilled in the art to make and use the subject matter defined by each of the rejected claims; and c) set forth the best mode contemplated by the inventor of

carrying out the invention. Applicant does not conform to this requirement of cited example of showing how his application complies with the first paragraph "

Applicant has corrected this, as requested."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was discussed on pages 68 through 78 in the Appeal Brief, as said Notice stated on pages 3 and 4. The meticulous effort of the Appellant was again ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on pages 3 and 4 in said Notice of Sept. 17, 2003 and on pages 68 through 78 in the Appeal Brief. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement this time ignoring pleadings in the Appeal Brief.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Fourth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Fifth, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4.

Seventh, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

The Office's Tenth False Statement

14. The Office's Communication inaccurately states,

"Since the above deficiencies have been listed in the 8/29/03 Office Action, Applicant's failure to correct them is no longer considered inadvertent."

The Truth - There Are No "Deficiencies"

The Truth - Applicant Did Not Failure To Correct Them

The Office is wrong for at least six reasons. First, Appellant respectfully disputes this because there are no "deficiencies".

Second, Appellant respectfully disputes this because Applicant did NOT failure to correct them.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Fourth, Appellant respectfully disputes this because this was discussed on pages 2 though 5 of said Notice.

Fifth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 2 though 5.

The Office's Eleventh False Statement

15. The Office's Communication inaccurately states,

"In addition, it is noted that claim 14 is not included in Appendix A of the revised brief."

The Truth - Exhibits Were Submitted And Ignored

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because the Examiner asked him to correct this.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 5,

"The Office's notification states,

"f. Appendix A is incorrect because some claims are recited differently from those finally rejected, e.g., claims 1 and 10."

The Applicant has put the correct claims in Appendix "A". Appellant attempted to call the Examiner who refused to address this matter to explain what he was speaking of. The Examiner was reminded that this was for the Board. He refused to discuss it.

The claims are those claims before Final. Attached is copies of the Post Cards stamped by the Office proving receipt [Exhibit "B", also Appendix "C"].

Applicant also presented amendments after Final to comply with the Examiner's suggestions/comments. Attached is the Post Card stamped by the Office showing receipt [Exhibit "B"]. This Exhibit proves Amendments were submitted after Final, and were timely received by the Office.

The claims before Final are in Appendix "A".

The amendments submitted after Final are in Appendix "B". "

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to Appendix A, as said Notice stated on page 5.

Third, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5.

Fourth, where is the Office's response to Exhibit "B" (previously presented to --and received by-- the Office; attached)?

Fifth, in the light of the above, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

The Office's Twelfth False Statement And Most Chaotic Statement

16. The Office's Communication inaccurately states,

"Also, it is noted that Appendix B is mischaracterized as Amendments Entered After Final. "

"To avoid confusion with the claims under Appeal, Appendix B should be deleted."

The Truth - The Office Has Made Two Opposite Dictates Of Appendix B

The Office is wrong for at least four reasons. First, the Office's behavior in this matter is chaotic. As one example, this demand in the Second Communication is opposite the Office's demand in the First Communication.

Second, Appellant respectfully disputes this because Appellant already addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 2,

"The Office's notification states,

"a. The statement of Status of Amendments is improper. Any arguments that the applicant may wish to make regarding these amendments should be discussed in Argument section rather than in this section. There is no Appendix B. contrary to the statement in this section."

Appellant has corrected the statement of the Status of Amendments.

Appendix B is corrected."

[*"Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2]*

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on page 3 in the Appeal Brief, as said Notice stated on page 2. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 2 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no

accountability in the Office. Instead, the Communication of 11/18/03 chaotically and unfairly demands exactly the opposite of the first Office Communication.

Third, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Fourth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2.

An Example Of The Office's Previous Recent False Statements

17. Previously, in the First Office's notification, Mr. Carone was deceptive and wrong. He stated,

"Not ail grounds for rejection of claims are addressed. For example, the examiner rejected new claims 24, 26 and 28 as non enabling because the specification does not describe how and in what manner the claimed redistribution of isotopic fuel causes the so called impact on a fuel impenetrable barrier. This rejection is not specifically addressed in the Appeal Brief, as well as the 35 U.S. C. 103(a) rejection of claims discussed in Section 10 of the Final Office Action, dated 2/3/03."

The Truth - The Purported "New Matter Rejection" Was Identified And Discussed

Despite the deliberate previous false statement in the First Communication, as stated in the Notice on page 4, Appellant notes that this was already addressed in the Appeal Brief on especially pages 78 and thereafter, but also extending through and including page 95.

NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 4.

18. There are at least a dozen errors in the Communication of 11/18/03 by Mr. Carone. This is unfair. This is unreasonable. This has been a pattern. If there was a fifty percent likelihood of each error (that is, if it were made innocently), then the dozen errors reveal that there is only a one in a 4000 likelihood that Mr. Carone is innocent. By contrast, the data heralds that Mr. Carone has been irresponsible, negligent, malicious, and has obstructed justice with systematic actions against the US Constitution and Appellant's civil rights.

WHEREFORE for the above reasons, the Applicant (now Appellant) respectfully requests the Office allow this Motion for Sanctions, and begin an internal inquiry into why Mr. Carone has been encouraged to give systematic false statements in Federal documents. This should include why he does this for inventions associated with US security as he demands Argument relating to the US Constitution (from where his job derives) be deleted. This is serious matter, and the Office has not shown a shred of accountability as it assaults the US Constitution, civil rights, US citizens, and its own integrity.

Respectfully submitted,



Mitchell R. Swartz, ScD, MD, EE
Post Office Box 81135
Wellesley Hills, Mass. 02481

Certificate Of Mailing [37 CFR 1.8(a)]

November 24, 2003

To Whom it Does Concern:

I hereby certify that this correspondence will be deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed to

"Office of the Clerk
Board Of Patent Appeals
c/o The Commissioner for Patents
Alexandria, VA 22313-1450" on the date below.

Thank you.

Sincerely,



November 24, 2003

M.R. Swartz



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,691	12/26/2000	Mitchell R. Swartz		4269

7590 11/18/2003

Mitchell R. Swartz, ScD, MD, EE
16 Pembroke Road
Weston, MA 02493

EXAMINER	
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ART UNIT	PAPER NUMBER
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DATE MAILED: 11/18/2003



Please find below and/or attached an Office communication concerning this application or proceeding.

EXHIBIT "A"

RECEIVED

DEC 03 2003

OFFICE OF PETITIONS

APPENDIX C

EXHIBIT "B"

The self-addressed stamped postcards bearing the imprimatur of the stamp of the Patent Office's Post Office proving timely receipt of Exhibits and pleadings.

The date stamp of the United States Patent Office on this postcard will indicate receipt of:

1. Patent Disclosure, including Abstract (DS)
2. A division of Serial no. 07/760,970 Filed: 09/17/99
3. Sheets of drawings
4. A Declaration as the last page thereof
5. A check in the amount of \$355.00 to cover the filing fee
6. A Verified Statement claiming Small Entity status
7. Information Disclosure Statement
8. Form 1440
9. Copies of References cited in IDS
10. A copy of Serial no. 07/760,970 Filed: 09/17/99
11. This self-addressed stamped postcard

December 26, 2000 Mitchell R. Swartz

The date stamp of the United States Patent Office on this postcard will indicate receipt of:

1. Applicant's Response to Communication of 9/5/02
 2. with a Certificate of Mailing on the last page
 3. Declaration of Dr. Mitchell R. Swartz
 4. A packet of additional Declarations
 5. Several packets of References with Forms 1440
 6. A copy of Abstract requested by the Examiner
 7. From '970: Amendment under Rule 116 (11/2/93)
 8. From '970: Reply Brief to Examiner (4/23/94)
 9. Appendix "Introduction to Barriers", and
 10. This self-addressed stamped postcard
- S.N. 09/748 591 Filed: 12/26/2000
Thank you. Dr. M. Swartz
Mailed: November 4, 2002



The date stamp of the United States Patent Office on this postcard will indicate receipt of:

1. Applicant's Amended "Response to Comm. of 7/22/02"
 2. with a Certificate of Mailing on the last page
 3. Exhibit "REQ" Showing The Request
 4. Exhibit "REC" With Date-Stamp Proving Receipt Of Declaration, References, Forms PTO-144,
- Other materials and Appendix "Introduction to Barriers", and
This self-addressed stamped postcard.



The date stamp of the United States Patent Office
on this postcard, will indicate receipt of:

1. "Response of Applicant to Office Action",
with a Certificate of mailing
on the last page thereof, and
2. Version With Markings To Show Changes Made,
3. Petition To The Commissioner Supported By A
3. Declaration of Dr. Mitchell Swartz
4. Several Packages of Exhibits Rebutting The Examiner,
5. Forms 1440 For said Exhibits, and
6. This self-addressed stamped postcard.

S.N. 09/748,691 Filed: 12/26/2000

Thank you.

Mailed: March 24, 2003 Dr. Mitchell Swartz



The date stamp of the United States Patent Office
on this postcard, will indicate receipt of:

1. "Applicant's Response To
The Office Communication Of 4/15/03",
with a Certificate of mailing
on the last page thereof, and
2. This self-addressed stamped postcard.

S.N. 09/748,691 Filed: 12/26/2000

Thank you.

Mailed: April 19, 2003 Mitchell Swartz



The date stamp of the United States Patent Office
on this postcard, will indicate receipt of:

1. "Petition To The Commissioner",
with a Certificate of mailing
on the last page thereof, and
2. Declaration of Dr. Mitchell Swartz, and
3. This self-addressed stamped postcard.

S.N. 09/748,691 Filed: 12/26/2000

Thank you.

Mailed: April 19, 2003 Dr. Mitchell Swartz



APPENDIX A

The date stamp of the United States Patent Office on this postcard will indicate receipt of:

1. "Petition To The Commissioner", with a Certificate of mailing on the last page thereof, and
2. Declaration of Dr. Mitchell Swartz, and
3. This self-addressed stamped postcard.

S.N. 09748,691 Filed: 12/26/2000

Thank you.
Mailed: April 30, 2003 Dr. Mitchell Swartz

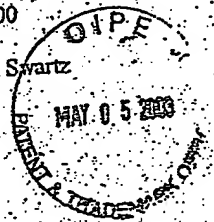


The date stamp of the United States Patent Office on this postcard will indicate receipt of:

1. "Notice Of Appeal", with a Certificate of mailing on the last page thereof, and
2. This self-addressed stamped postcard.

S.N. 09748,691 Filed: 12/26/2000

Thank you.
Mailed: April 30, 2003 Mitchell Swartz



The date stamp of the Board Of Patent Appeals on this postcard will indicate receipt of:

- 1) Appellant's Appeal Brief (in triplicate),
- 2) containing a Certificate of Service on the last page,
- 3) Appellant's Appendix attached thereto,
- 4) Appellant's Certificate Of Mailing,
- 5) Appellant's check in the amount of \$160, and
- 6) This Self-addressed postcard for the date stamp of the Board Of Patent Appeals.

Thank you Dr. Mitchell R. Swartz
Mailed June 29, 2003
Serial no. 0 / 748,691

